

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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| Notice of Proposed Rulemaking         | ) |                     |
|                                       | ) | CS Docket No. 02-52 |
| Appropriate Regulatory Treatment for  | ) |                     |
| Broadband Access to the Internet Over | ) |                     |
| Cable Facilities                      | ) |                     |
| <hr/>                                 | ) |                     |

**REPLY COMMENTS OF THE CITY OF CEDAR RAPIDS, IOWA (“CEDAR RAPIDS”)**

These comments are filed by Cedar Rapids in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, Cedar Rapids believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights-of-way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in Cedar Rapids.

1. Cedar Rapids and the Status of Cable Modem Service.

Cedar Rapids has a total population of approximately 121,000. It is served by Mediacom and McLeod USA (collective “cable operators”) which have approximately 40,000 cable service

subscribers. The cable operators include cable modem services in conjunction with other cable services to residents in Cedar Rapids. McLeod USA also offers telecommunications services.

2. Cedar Rapids Franchises.

A. **Mediacom Franchise**

Mediacom operates its system based on a franchise originally granted to Cox Cable Cedar Rapids, Inc. in 1991. The franchise was transferred to Mediacom in June, 2001. The system in Cedar Rapids has been regularly upgraded to enable the broadband capability. Cable modem service revenues are included with other cable service revenues in the calculation of franchise fees. The Gross Revenues definition in the franchise, Section 14.01(g), states:

“Gross Revenues” shall mean all revenue derived or produced from or in connection with or related to, directly or indirectly, the operation of the system within this City by the company or its affiliates, subsidiaries, parents, or any person which the company has a financial interest from or in connection with the operation of the system within the City with no deductions whatsoever.

Mediacom and its predecessor, AT&T, have paid franchise fees on cable modem services up to the date of the FCC’s recent ruling. The franchise fees on these services are estimated to be approximately \$50,000 per year. Cedar Rapids has objected to the discontinuance of payment of franchise fees on modem service, believing the terms of the franchise require it to do so until a final FCC ruling.

B. **McLeod USA Franchise**

McLeod operates a cable system and a telecommunications system in Cedar Rapids pursuant to a franchise granted to it in 1998. McLeod offers high speed modem service, including cable modem service to cable subscribers and DSL service to

telecommunications service subscribers. The definition of “Gross Revenues” in the McLeod franchise, Section 14A.01(g), states as follows:

Gross revenues: All revenue derived or produced from or in connection with or related to, directly or indirectly, the provision of cable service via the system within this city by the company or its affiliates, subsidiaries, parents, or any person which the company has a financial interest from or in connection with the operation of the system within the city with no deductions whatsoever. However, gross revenues shall not include any revenues the company derives from telecommunications services.

McLeod has not paid franchise fees on either cable modem service revenues or DSL service revenues. Cedar Rapids has not agreed with McLeod to the non-payment and expects that a final ruling from the FCC will clarify the Cedar Rapids authority to require payment.

Neither the franchise requirements or the fees have prevented or delayed the roll-out of cable modem service in Cedar Rapids by cable operators.

### 3. How Cedar Rapids Regulates Cable Modem Service.

Cedar Rapids regularly receives complaints from customers regarding the services provided by cable operators. The number of calls averages between 30 and 45 calls per month. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- A single bill is sent for cable modem and cable services, so billing complaints involve both.

- Customer service calls go to a single number, so telephone answering policies affect both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by cable operators that they can call the City with complaints, and as far as Cedar Rapids can tell, at no time do cable operators advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In Cedar Rapids' view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints Cedar Rapids receives, and because of its close tie to video services.

Cable modem service is also subject to the following requirements under the Cedar Rapids franchise:

- Cable operators are required to provide cable modem service throughout Cedar Rapids, and is prohibited from redlining.
- Cable operators are prohibited from discriminating against potential customers.

#### 4. Cedar Rapids and Broadband Deployment.

Cedar Rapids believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. Cedar Rapids also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. Cedar Rapids wants to avoid knowledge and opportunity gaps created because some parts of Cedar Rapids have access to broadband information, while others do not.

To that end, Cedar Rapids devotes significant resources to take advantage of the information highway and to extend its benefits to all. In addition, because the cable system has cable modem services, Cedar Rapids is contemplating the future utilization of the funds that it receives from cable services as well as cable modem services to create webcasting or streaming video on its internet site to enable the residents to receive through the internet local interest programming and services, including the governmental access programming and news shows and City Council meetings.

The funds that Cedar Rapids obtains from cable modem franchise fees are extremely important to help offset the costs of these and other activities, particularly those relating to public safety. If Cedar Rapids loses these funds, it will be more difficult to protect consumers, offer the extensive local community video services, and to promote the deployment of broadband throughout the community.

Respectfully submitted,

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